



Respect in the Workplace – Discrimination, Harassment and Violence

Purpose/Rationale

Crossroads International (“Crossroads”) is committed to providing and maintaining a workplace which is free from discrimination, harassment and violence for its employees, volunteers, and Crossroads partners, all of whom have a right to be treated equitably, respectfully and with dignity according to the human rights legislation and occupational health and safety legislation governing the geographic location of the Crossroads operation.

Scope

Respect in the workplace is a joint responsibility shared by all Board members, employees, volunteers, partners, suppliers and independent contractors. This policy applies to Crossroads’ operations both in Canada and overseas.

Where issues arise overseas that are beyond the Canadian reach of law, Crossroads will make every effort to intervene subject to limitations beyond its control. Where a conflict exists between the standards upheld in this policy and the local, provincial/state and federal laws where the incident arises, Crossroads abides by international human rights legislation.

Definitions

Complainant: term used in the context of an investigation and used in this document to identify the person that formulates a complaint.

Discrimination: defined by the *Canadian Human Rights Act* (the Act) as differential treatment based on membership in one of the groups protected by the Code: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy), sexual orientation, gender identity, gender expression, age, record of offences for which a pardon has been granted, marital status (including same-sex partnership status), family status or disability or perceived disability.¹

Discriminatory Harassment: refers to conduct, comments, actions or gestures against a worker or volunteer in a workplace based on the protected grounds in the Act which the recipient does not welcome or that offends him/her.

¹ 1 Applicable provincial or territorial legislation should be consulted for any variations of definitions covering discrimination or harassment.

Examples of discriminatory harassment may include:

- Unwelcome remarks, jokes, innuendoes or teasing about a person's membership in a group that is protected from discrimination by law
- Displaying or distributing derogatory or offensive materials about individuals or groups that are protected from discrimination by law
- Deliberately excluding, socially isolating, refusing to talk, share or work with other employees because of their membership in a group protected from discrimination by law
- Written or oral insults, abuse or threats to an individual because of their membership in a group protected from discrimination by law
- Offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds
- Imitating a person's accent, speech or mannerisms
- Persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children
- Inappropriate comments or jokes about an individual's age, sexual orientation, personal appearance or weight

Reprisal: is when a management official takes action against someone for making a complaint under this policy or for refusing to be a part of a discriminatory or harassing behaviour.

Respondent: the person(s) to whom the complaint is made

Sexual Harassment: defined by the Occupational Health and Safety Act (the "OHSA") as 1) vexatious behaviour in the form of conduct, comments, actions or gestures against a worker or volunteer in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or 2) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend him or her. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender.

Examples of sexual harassment may include:

- Unwelcome remarks, jokes, innuendoes or teasing about a person's clothes, gender or sexual orientation
- Unnecessary and unwanted physical contact such as touching, patting, pinching or rubbing, kissing, brushing up against a person
- Physical and sexual assault
- Sexual advances
- Displaying or pornographic pictures or other offensive materials of a sexually explicit nature

Workplace: the workplace extends beyond Crossroads' offices and includes other locations and situations wherever work of Crossroads takes place.

Workplace Harassment (or Psychological Harassment - Quebec): defined by provincial legislation as vexatious behaviour in the form of conduct, comments, actions or gestures against a worker or volunteer in a workplace that affect a person's dignity or psychological or physical integrity, that are known or ought reasonably to be known to be unwelcome, and that make the work environment harmful. It is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect. Harassing comments or conduct can poison someone's working environment, making it a hostile or uncomfortable place at which to work, even if the person is not being directly targeted. This is commonly referred to as a poisoned working environment and it is also a form of harassment. The grounds of harassment are the same as those of discrimination, as provided for by law.

Examples of harassment or psychological harassment may include:

- Unwelcome remarks, jokes, innuendoes or teasing which are hostile, abusive or inappropriate
- Displaying or distributing derogatory or offensive materials
- Deliberately excluding, socially isolating, refusing to talk, share or work with other employees
- Written or oral insults, abuse or threats to an individual
- Practical jokes that embarrass or insult someone
- Written or verbally abusive behaviour such as yelling, insults, ridicule and name calling, remarks, jokes or innuendoes, bullying or cyberbullying, etc. that demean, ridicule, intimidate or offend
- Workplace pranks, vandalism and hazing that embarrass or insult someone
- Gossiping or spreading malicious rumours, including negative blogging
- Excluding or ignoring someone, including the persistent exclusion of a particular person from work-related social gatherings
- A supervisor/manager undermining someone else's efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job
- A supervisor/manager providing only demeaning or trivial tasks in place of normal job duties
- A supervisor/manager impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
- Making false allegations about someone in memos or other work-related documents

Workplace Violence: defined under the OHS Act as: "a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker, c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker." It is defined broadly enough to include acts that may be considered criminal. Workplace violence is behaviour that does or may cause physical injury.

Examples of violence may include:

- Physically threatening behaviour such as shaking a fist, hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing objects, stalking, wielding a weapon
- Leaving threatening notes or sending threatening e-mails
- Verbal or written threats to physically attack
- Destroying property
- Physically restraining someone or any other form of physical or sexual assault

What isn't Harassment?

The OHSA states: "A reasonable action taken by an employer or supervisors relating to the management and direction of workers or the workplace is not workplace harassment." Therefore, workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- Measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- Imposing discipline for workplace infractions
- Requesting medical documents in support of an absence from work where permitted by law
- Enforcing rules and policies

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

The Test of Harassment

It does not matter whether one intended to offend someone. The test of harassment is whether one knew or ought to have known that the comments or conduct were unwelcome to the other person.

For example, someone may make it clear through his or her conduct or body language that the behaviour is unwelcome, in which case that behaviour must immediately stop. Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, manager to employee and employee to manager, etc.

Policy

Preventing Discrimination, Harassment and Violence

Crossroads will not tolerate or condone discrimination, harassment or violence in the workplace.

Every person has a right to equal treatment with respect to employment and volunteerism, without discrimination.

Violence that occurs outside the normal workplace, but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace. Workplace violence may come from many different sources, including strangers, customers or clients, co-workers and personal relations.

In the event that Crossroads becomes aware that an employee is experiencing domestic violence that would likely expose him/her or other employees to risk of physical injury at work, Crossroads will take every reasonable precaution to protect the employee and co-workers in a manner that is as discreet as possible to protect one's privacy. This could include: developing a safety plan with the employee, enhancing security measures, screening calls, contacting police or other reasonable steps considering the circumstances.

Responsibilities

Crossroads and its employees and volunteers have a mutual responsibility to create and maintain a discrimination, harassment and violence-free workplace.

a) Management

Management refers to employees who have one or more employees under their direct supervision. Management's responsibilities include:

- Creating and maintaining a discrimination, harassment and violence-free workplace by being alert, observant, and approachable and a good listener to employees and to their concerns. Management will be held accountable for any discrimination, harassment or violence that they know or ought reasonably to have known about in the workplace.
- Treating all complaints seriously, sensitively and confidentially and taking appropriate action in keeping with Crossroads' policy. They must act responsibly and intervene promptly when they become aware of alleged improper or offensive conduct (by either hearing about or observing an employee or volunteer bringing forward an incident of inappropriate behaviour) and follow the problem resolution procedure.
- Ensuring an employee or volunteer does not experience any form of retaliation for having made a good faith complaint.
- Leading by example and acting respectfully in all dealings with employees, volunteers and other persons working for and with Crossroads.
- Taking every reasonable precaution to protect employees and volunteers from workplace violence, including evaluating a person's history of violent behaviour to determine whether and to whom this person poses a risk. In making this evaluation, managers should consider whether the person's history of violence was associated with the workplace or work, whether the history of violence was directed at a particular employee or employees in general, and how long ago the incidents of violence occurred, in certain circumstances.
- Educating employees and volunteers about what constitutes discrimination, harassment and violence, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.
- Informing employees, volunteers, suppliers, independent contractors and partners about this policy and its accompanying procedures.

b) Employee and Volunteer Responsibilities:

- Employees and volunteers have a responsibility to ensure that their behaviour does not violate this policy or the law.
- Employees and volunteers must foster a work environment that is based on respect and is free of harassment.

- Employees and volunteers must report the existence of any workplace violence or threat of workplace violence to their immediate supervisor or the Director responsible for the department in which they work.
- Employees and volunteers have a duty to participate in investigations and have an obligation to cooperate with any investigation in which they are asked to participate.

Confidentiality

Crossroads recognizes the sensitive nature of harassment and violence complaints and will keep all complaints confidential, to the extent that is possible. Only the information needed to investigate and respond to the complaint or situation, or required by law, will be released. Out of respect for the individuals concerned, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

To protect the complainant, the respondent and any others who may report incidents of harassment or discrimination, confidentiality will be maintained throughout the investigation to the furthest extent possible.

Confidentiality is different from anonymity. It is fundamental that an individual accused of an offense be informed of the allegations at Step 2 (see Procedure); this information will include the complainant's identity.

Confidentiality cannot be guaranteed, where the complainant or respondent chooses to talk outside the complaint procedure. Both parties are asked not to talk about the complaint with anyone.

All records will be kept confidential except where disclosure is required by a disciplinary or other corrective process and except as prescribed by any applicable legal proceeding.

No Reprisal

Crossroads will not tolerate retaliation, taunts or threats against anyone who complains about harassment or takes part in an investigation.

Alleged reprisals are subject to the same complaint procedures and penalties as complaints of discrimination and harassment. The employer acting on an allegation of discrimination or harassment does not constitute a reprisal.

Training

All employees and volunteers will receive training and communication on this policy and any related policy and program.

Policy Review

This policy will be reviewed by management annually, or as often as required.

Procedure

Who May Complain?

All employees and volunteers have the right to complain about situations they believe constitute harassment or discrimination under this policy. The person affected is encouraged to make a complaint directly. Complaints may be made through a third party or anonymously.

Complaints can also be made by a group of people who may have been subjected to the same offensive treatment; co-workers who saw the incidents where there is a direct and personal impact as a result of harassment involving others; or a third party complaining on behalf of the complainant.

Under the OHSA, the duty to investigate is triggered by “incidents” of workplace harassment, even if no complaint has occurred. Depending on the nature of the incident and other circumstances, this may occur through a less formal or more formal resolution process.

Investigating and Resolving Discrimination and Harassment Complaints

Step 1 – Informal Resolution

Wherever possible, employees or volunteers experiencing discrimination and/or harassment should take the following actions:

- Tell the person who is harassing or discriminating that the behaviour is unwelcome and should stop. Often this will fix the problem.
- Keep a record of the incident, including the time, location, people present etc.

At this stage, there is no formal record of the complaint because the parties involved have resolved the conflict informally without recourse to the formally triggered mechanism provided for at Step 2 of this procedure.

Step 2 – Formal Resolution

Where a problem could not be resolved or where the employee or volunteer is unable to complain directly to the alleged respondent, a formal complaint may be filed.

An employee or volunteer should report a complaint quickly, as it protects the rights of both the person making the complaint and the respondent. Employees or volunteers are therefore encouraged to report a complaint as soon as possible.²

An employee or volunteer can make a written complaint to their immediate supervisor or Director responsible for the department in which they work. If that person is the individual being complained about, the complaint should be made to the Executive Director. In the case of a complaint about the Executive Director, the matter should be brought to the attention of the Chair of the Board of Directors.

² Timeline limitations of provincial or territorial human rights legislation for filing a complaint should be checked so that a complainant does not jeopardize their right to pursue the matter at that level.

The written complaint must contain a description of the incident(s), time and place of the incident, the person(s) involved, the names of witnesses, if any, and it must be signed and dated by the person complaining.

Respondents must be advised that there is a formal complaint against them and given a copy of the written statement of complaint by management. The respondent will be kept informed about the process.

At any stage of the formal process, both the complainant and the respondent may have a colleague or representative present.

The procedure for the formal resolution of complaints under the policy:

- When management receives a complaint, the Executive Director of Crossroads shall be notified.
- Within seven (7) working days of receiving a complaint, the Executive Director or designate ³ will notify the respondent(s) of the allegations. The respondent will be given seven (7) working days to send the Executive Director a written response to the allegations and/or a meeting with that person will be held.
- The Executive Director will conduct confidential enquiries to obtain information within twenty (20) working days, unless there are extenuating circumstances.
- Depending on the circumstances, the respondent may be suspended with pay until the investigation is complete.
- The results of the investigation will be documented. Both parties will have five (5) working days in which to review and comment on the Executive Director's findings and recommendations before a final decision is made.
- The complainant(s) and the respondent(s) will be notified in writing of the final decision within ten (10) working days of receiving their input.
- A founded complaint under this policy will be considered a form of misconduct. Corrective action could include:
 - Education and training;
 - Disciplinary action varying from counseling to a written reprimand, suspension or discharge.
- Where the results of the investigation do not support the allegations, the complaint will be discontinued and so documented.
- If a complaint is made in good faith and without malice, regardless of the outcome of the investigation, the complainant will not be subject to any form of discipline. Crossroads will, however, discipline or terminate anyone who brings a false and malicious complaint.

Other Avenues of Remedy

An employee or volunteer is entitled to file a complaint of discrimination and/or harassment to the Human Rights tribunal, the Ontario Ministry of Labour ("MOL"), or the Quebec Commission des normes, de l'équité, de la santé et de la sécurité du travail ("CNESST"). Generally, a complaint to these regulatory bodies must be filed within six (6) months of the date of the incident(s) upon which the complaint is based. However, in Quebec, a person has a period of two (2) years after the last manifestation of psychological or sexual harassment to file a complaint with the CNESST. As such, legislation in the province or territory within which the employee resides should be checked.

³ At any time the Executive Director may appoint a designate.

Procedures for Addressing Violence Complaints

Work Refusal

An employee or volunteer has the right to refuse work if the employee or volunteer believes that workplace violence is likely to endanger the employee or volunteer. In this instance, the employee or volunteer is to contact his/her supervisor so that appropriate measures are put into place to protect the employee or volunteer and investigate the situation. This may include moving work locations, alternative responsibilities and possibly contacting the police or emergency personnel.

Risk Assessment

A risk assessment may be conducted and could include issues of access to the office, the security system, reception, lighting, etc. Please refer to the *Health and Safety Policy* for a copy of the risk assessment checklist. Strategies to address potential risks could include:

- Establishing emergency procedures and designated safe locations for emergency situations
- Strategies for dealing with violent or harassing clients
- Review of the design of physical layout of the workplace
- Office security and procedures for employees working late in the office

Investigating/Resolving Complaints

The procedures for reporting, investigating and dealing with incidents of workplace harassment and violence would follow the complaint procedure as outlined above in Discrimination and Harassment instances, unless management determines the situation warrants more immediate steps.

Procedures for Addressing Domestic Violence Complaints

Should an employee experience domestic violence that could expose her/him to physical injury in the workplace, he/she is to immediately advise his/her direct supervisor who, together with the Executive Director and the employee, will establish a safety plan which may include protective measures and provide a timely response to the situation.